

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SERGE HAITAYAN, et al.,

Plaintiffs,

v.

7-ELEVEN, INC.,

Defendant.

Case No. 1:21-cv-01335-NONE-EPG

ORDER GRANTING *EX PARTE*
APPLICATION FOR AN INITIAL
EXTENSION OF TIME TO RESPOND TO
COMPLAINT

(ECF No. 4)

Defendant 7-Eleven, Inc. removed this action from the Fresno County Superior Court on September 7, 2021.¹ (ECF No. 1). Defendant has filed an *ex parte* application for an initial extension of time to respond to the complaint, specifically requesting until October 8, 2021, to file a response. (ECF No. 4). As grounds for the *ex parte* nature of the request, Defendant cites Local Rule 144(c), which provides as follows:

The Court may, in its discretion, grant an initial extension ex parte upon the affidavit of counsel that a stipulation extending time cannot reasonably be obtained, explaining the reasons why such a stipulation cannot be obtained and the reasons why the extension is necessary. Except for one such initial extension, ex parte applications for extension of time are not ordinarily granted.

In support, defense counsel has supplied a declaration indicating that counsel reached out

¹ The Court uses September 7, 2021, because that is the date that the notice of removal is listed as filed on CM/ECF. However, the Court recognizes that the *ex parte* application and attached declaration from defense counsel states that this matter was removed on September 3, 2021. (ECF No. 4, p. 2; ECF No. 4-1, p. 2).

1 to Plaintiff's counsel on September 8 and twice on September 9, 2021, to request counsel's
2 stipulation to an extension. (ECF No. 4-1, p. 2). However, Plaintiff's counsel has not yet
3 responded. (*Id.*).

4 As basis for the request for additional time, defense counsel states that the extension "is
5 needed to allow 7-Eleven to assess Plaintiffs' claims and determine whether a motion to dismiss
6 or other pleading challenge would be appropriate. 7-Eleven will be prejudiced if this extension is
7 not granted because it will not have the opportunity to evaluate its potential challenges to
8 Plaintiffs' Complaint." (*Id.*). Given defense counsel's representations, the Court will exercise its
9 discretion to grant an initial extension *ex parte* of the deadline to respond to the complaint.

10 Accordingly, IT IS ORDERED, that the *ex parte application* for an initial extension of
11 time to respond to the complaint (ECF No. 4) is granted. Defendant shall file a response to the
12 complaint no later than October 8, 2021.

13
14 IT IS SO ORDERED.

15 Dated: September 10, 2021

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE